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*Attorneys for Defendants* **JOSE ZAVALA and  
JULIO QUINTANILLA**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MARGARITO T. LOPEZ, SONIA  
TORRES, KENI LOPEZ, ROSY  
LOPEZ,

Plaintiffs,

v.

CITY OF LOS ANGELES, JOSE  
ZAVALA, JULIO QUINTANILLA,  
AND DOES 1 THROUGH 10,  
INCLUSIVE,

Defendants.

**CASE NO. 2:22-cv-07534-FLA-MAAx**

[Assigned to Judge Fernando L. Aenlle-Rocha, USDC-  
Hon. Mag. Maria A. Audero, USDC-Roybal Bldg]

**DEFENDANTS' NOTICE OF MOTION  
AND *FIRST* MOTION IN LIMINE TO  
EXCLUDE OTHER LAWSUITS AND  
ADMINISTRATIVE PROCEEDINGS**

[Filed concurrently with Declaration of  
Muna Busailah to Motions *in Limine* No. 1,  
No. 2, No. 3, No. 4 and No. 5; Exhibits A-  
C; [Proposed] Order]

FPTC: May 31, 2024  
TIME: 1:00 PM  
DEPT: 6B, 6<sup>th</sup> Floor

PLEASE TAKE NOTICE THAT Defendants OFFICERS JOSE ZAVALA  
AND JULIO QUINTANILLA (collectively "Defendants"), will and hereby do  
move this Court, before trial and prior to jury selection, for the following order in  
*limine*:

1           1.     Not to mention, refer to, interrogate concerning, nor convey to the jury  
2 any evidence concerning any national events and media involving law enforcement;  
3

4           2.     Not to mention, refer to, interrogate concerning, nor convey to the jury  
5 any evidence concerning any other Claims, Lawsuits, Settlements, Verdicts,  
6 Judgments, Complaints, Administrative Investigations or Proceedings and/or Other  
7 Alleged Incidents;  
8

9           3.     Not to mention, refer to, interrogate concerning, nor convey to the jury  
10 any evidence concerning any national, regional or local statistics regarding the  
11 number of deaths of civilians in officer-involved shootings;  
12

13          4.     To instruct and admonish the Plaintiff and her counsel and advise said  
14 counsel to instruct all witnesses to refrain from conveying to the jury directly or  
15 indirectly, any of the facts mentioned in this Motion without first obtaining  
16 permission of the Court outside the presence and hearing of the jury;  
17

18          5.     To refrain from making any reference to the fact that this Motion has  
19 been filed; and,  
20

21          6.     To warn and caution each of the witnesses to strictly follow the same  
22 instructions.  
23

24          7.     This Motion is made on the grounds that the issues above that  
25 Defendants seek to exclude are irrelevant to the issues in this case, and that if these  
26 matters were brought to the attention of the jury, Defendants would be substantially  
27 prejudiced by them, and such prejudice would not be cured by any instruction to the  
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1 jury. These matters also should be excluded as they are inadmissible character  
2 evidence and inadmissible subsequent remedial measures. In addition, the details  
3 of administrative proceedings concerning LAPD officers are privileged and  
4 confidential and may not be divulged absent a waiver by both the accused employee  
5 and the City of Los Angeles.  
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7  
8 Counsel met and conferred on Defendants' motions *in limine* on April 18,  
9 2024. The parties were unable to completely resolve the substance of this motion.  
10

11  
12 Date: May 3, 2024

**STONE BUSAILAH, LLP**

13 By: /s/ Muna Busailah

14 MUNA BUSAILAH, Esq.  
15 Attorney for Defendants JOSE ZAVALA,  
16 JULIO QUINTANILLA  
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1                   **DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES**

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3                   **I. INTRODUCTION.**

4                   Defendants request that this Court issue an order excluding evidence  
5 concerning any national events or statistics involving law-enforcement, along with  
6 all claims, citizen complaints, lawsuits, settlements, verdicts, judgments, LAPD  
7 administrative investigations or proceedings, and any other alleged incidents not  
8 related to the instant matter.  
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11                  The categories of items that Defendants seek to exclude are irrelevant to any  
12 issues in this case. Moreover, the prejudicial impact on Defendants of allowing this  
13 type of evidence substantially outweighs any possible probative value. Further, any  
14 LAPD administrative investigations are privileged and confidential and not subject  
15 to disclosure absent a waiver by both the accused employee and the City of Los  
16 Angeles. This evidence also is inadmissible character evidence and inadmissible  
17 subsequent remedial measures.  
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21                  **II. NATIONAL EVENTS, STATISTICS, AND OTHER CLAIMS,**  
22                   **COMPLAINTS, AND ADMINISTRATIVE INVESTIGATIONS OR**  
23                   **PROCEEDINGS SHOULD BE EXCLUDED**

24                  This Court should exclude as irrelevant all evidence of national events and  
25 statistics concerning law-enforcement, along with all claims, citizen complaints,  
26 lawsuits, settlements, verdicts, judgments, LAPD administrative investigations or  
27 proceedings, and any other alleged incidents not related to the instant matter.  
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1 Rule 402 of the Federal Rules of Evidence provides that “[e]vidence which is  
2 not relevant is not admissible.” “Relevant evidence” is “any evidence having any  
3 tendency to make the existence of any fact that is of consequence of the  
4 determination of the action more probable or less probable than it would be without  
5 the evidence.” Fed. R. Evid. 401. The quintessential issue that the jury will be  
6 asked to determine in this trial, particularly the liability phase, is whether the  
7 Defendant-Officers used unreasonable force during the incident in question.  
8 Evidence of national events and statistic involving law enforcement, along with any  
9 other lawsuits, claims, or allegations are irrelevant to the issues to be determined in  
10 this case. Indeed, these matters have no factual connection or consequence to what  
11 occurred during this incident. Further, these matters do not make any facts in this  
12 matter more or less probable.  
13

14 Similarly, any administrative investigations or proceedings involving the  
15 Defendants do not have the tendency to make any consequential fact in this matter  
16 more or less probable. *See* Fed. R. Evid. 401. To be sure, Plaintiffs’ burden  
17 requires proof that Defendants violated their rights under federal or state law as a  
18 result of the incident that forms the basis of his Complaint. The administrative  
19 investigations or proceedings do not change, inform, or make more or less probable  
20 what occurred during the incident.  
21

22 Nor do the administrative investigations or proceedings prove or disprove  
23 whether the Defendants violates any rights under federal or state law. Indeed, the  
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1 standards governing administrative investigations and proceedings, and how they  
2 are conducted, are markedly different from the Federal Rules of Civil Procedure or  
3 any other rule governing civil litigation. Further, a finding that an employee  
4 violated some administrative policy or procedure does not automatically make the  
5 employee legally liable for the same conduct. Conversely, a finding that an  
6 employee did *not* violate any administrative policies or procedures does not  
7 automatically make the employee *not* liable under federal or state law. Permitting  
8 the introduction of such evidence would invade the province of the jury, who is the  
9 fact finder in this case, not some administrative body.

13 Evidence of national events and statistics concerning law-enforcement, along  
14 with all claims, citizen complaints, lawsuits, settlements, verdicts, judgments,  
15 LAPD administrative investigations or proceedings are irrelevant and, therefore,  
16 inadmissible. This Court should thus exclude the same.

18 **III. THE PROBATIVE VALUE OF THESE MATTERS IS**  
19 **SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNDUE**  
20 **PREJUDICE, MISLEADING THE JURY, AND CAUSING UNDUE**  
21 **DELAY AND WASTE OF TIME.**

23 Rule 403 of the Federal Rules of Evidence provides that “[a]lthough relevant,  
24 evidence may be excluded if its probative value is substantially outweighed by the  
25 danger of unfair prejudice, confusion of the issues, or misleading the jury, or by  
26 considerations of undue delay[] [and] waste of time . . .” Rule 403 requires the  
27 prejudice be “unfair.” *U.S. v. Young* (D.S.D. 1990) 754 F.Supp. 739, 742. “Unfair”  
28

1 in this context means the evidence has an undue tendency to suggest to a jury  
2 decision based upon an improper basis, usually an emotional one. *Young*, supra,  
3 754 F. Supp. at 742. Additionally, where evidence is not closely related to the issue  
4 being charged and is otherwise irrelevant, the probative value of such evidence is  
5 substantially outweighed by the danger of unfair prejudice. (*U.S. v. Guerrero* (9<sup>th</sup>  
6 Cir. 1984) 756 F.2d 1342, 1348; *U.S. v. Black* (9<sup>th</sup> Cir. 1994) 20 F.3d 1458, 1464).

9 Any evidence regarding the above-matters would unduly prejudice the  
10 Defendants. Indeed, as explained above, such evidence is of no consequence in  
11 making the facts in *this* matter any more or less probable. Because such evidence is  
12 necessarily not of any consequence in determining this action, the introduction of  
13 these matters would serve the improper purpose of inflaming the passion of the  
14 jury. This evidence, and the jury's hearing the same, would, in turn, act as a  
15 prejudicial dagger toward the Defendants by which their actions would be viewed  
16 within the lens of such incidents. Not only would such evidence be prejudicial to  
17 Defendants, it would likewise be confusing to the jury and a waste of time. If the  
18 jury were permitted to hear such evidence, there would be a strong likelihood that  
19 the jury would associate this case with those national matters. The jury would thus  
20 either prejudge this case based on those incidents or decide to punish *these*  
21 defendants for *those* unrelated events, even those such events were against persons  
22 and officers not even tangentially involved in this case.

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28 Certainly, the introduction of such incident would cause the jurors in this

1 case to be influenced one way or another. And when they are influenced negatively  
2 – as there can be no dispute that the media coverage portrays law-enforcement in a  
3 primeval, savage, and unfavorable light – the jury may be induced to make an  
4 emotional decision as a result of a visceral reaction to the other alleged incidents.  
5

6 Likewise, reference to any administrative investigation or proceeding would  
7 only serve to confuse the issues and mislead the jury. The jurors may well be  
8 distracted by the administrative process and unable to distinguish between the civil  
9 process and the administrative process. The jury also may be induced to make an  
10 emotional decision as a result the manner of and/or the outcome of any  
11 administrative investigations or proceedings. Further, reference to any  
12 administrative investigations or proceedings also would be unduly inflammatory  
13 and would result in undue prejudice to Defendants, as it would color the jury's  
14 impressions of Defendants. Moreover, reference to administrative proceedings  
15 could unduly prolong the trial and waste valuable judicial resources, as Defendants  
16 would be forced to rebut such evidence and would have to spend considerable time  
17 explaining a process and a policy, which have no bearing on the outcome of this  
18 case.  
19

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21 **IV. EVIDENCE REGARDING THESE INCIDENTS SHOULD BE**  
22 **EXCLUDED UNDER FRE 404.**  
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24 Rule 404 of the Federal Rules of Evidence precludes the use of character  
25 evidence to prove wrongful conduct on a specified occasion. Accordingly,  
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1 Plaintiffs cannot use any of the above-matters in any way to prove that the  
2 Defendants here violated any law in this matter. Each case is separate and must be  
3 tried on its own merits. The jury is to determine the objective reasonableness of the  
4 Defendants actions based on what happened during *this* incident. Accordingly,  
5 evidence of any other alleged incident or administrative proceeding or  
6 administrative findings should be excluded from this trial.  
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9 **V. ADMINISTRATIVE INVESTIGATIONS ARE PRIVILEGED AND**  
10 **CONFIDENTIAL AND ARE NOT SUBJECT TO DISCLOSURE**  
11 **ABSENT A WAIVER BY BOTH THE ACCUSED EMPLOYEE AND**  
12 **THE CITY OF LOS ANGELES.**

13  
14 Further, administrative investigations are privileged and confidential and are  
15 not subject to disclosure absent a waiver by both the accused employee and the City  
16 of Los Angeles. *See* Cal. Gov. Code, §§ 832 et seq.; Cal. Evid. Code §§ 1043 and  
17 1046; *Davis v. City of San Diego*, 106 Cal.App.4th 893 (Cal. Ct. App. 2003).  
18 California places a high priority on preserving the privacy of various personnel  
19 records, California Constitution, Article I, Section I; Civil Code Section 1798, et  
20 seq. Among those protected records are peace officer personnel records, which are  
21 privileged and confidential pursuant to Penal Code Section 832.7 and are protected  
22 by the constitutional right to privacy. *City and County of San Francisco v. Superior*  
23 *Court* (1981) 125 Cal.App.3d 879, 882. “[Section] 832.7 is part of a statutory  
24 scheme enacted to protect peace officers’ interest in privacy to the fullest extent  
25 possible.” *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1301;  
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1 internal quotations omitted. There are specific requirements that a person must  
2 meet in order to obtain copies of those records, if they are released at all. Cal. Evid.  
3 Code §1040 et seq. Administrative investigations and proceedings are subject to  
4 the official information privilege and are maintained as part of an employee's  
5 personnel records.  
6

7  
8 Finally, the statements of any officers involved in the incident that serves the  
9 basis of Plaintiffs' Complaint should not be disclosed because such statements are  
10 compelled and protected under the Fifth Amendment privilege against self-  
11 incrimination. In California, public safety officers may be compelled to give  
12 statements against their interest. Los Angeles Police Officers are public safety  
13 officers. See California Government Code § 3301. This typically occurs in  
14 conjunction with an administrative investigation into the actions of one or more  
15 officers. Under the direction of their union representative, officers decline to give a  
16 voluntary statement during the investigation, and they are then ordered to provide a  
17 compelled statement pursuant to *Lybarger v. City of Los Angeles* (1985) 40 Cal. 3d  
18 822, 221 Cal. Rptr. 529. Officers are told ". . . among other things, that although  
19 [they have] the right to remain silent and not incriminate [themselves], (1) [their]  
20 silence could be deemed insubordination, leading to administrative discipline, and  
21 (2) any statement made under the compulsion of the threat of such discipline could  
22 not be used against [them] in any subsequent criminal proceedings." *Lybarger*,  
23 *supra*, 40 Cal. 3d at 829. The City of Los Angeles also has an official privilege  
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1 from disclosing those records, which it will not waive. As such, this Court should  
 2 prohibit Plaintiffs from introducing any evidence of any administrative or  
 3 investigative proceeding concerning the incident that forms the basis of the  
 4 Complaint.  
 5

6 **VI. EVIDENCE REGARDING ADMINISTRATIVE PROCEEDINGS**  
 7 **ALSO SHOULD BE EXCLUDED UNDER FRE 407.**  
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9 Federal Rules of Evidence 407 establishes that when measures are taken that  
 10 would have made an earlier injury or harm less likely to occur, evidence of the  
 11 subsequent measures is not admissible to prove negligence or culpable conduct.  
 12 The Ninth Circuit has held that evidence pertaining to a police department's  
 13 administrative investigation and disciplinary proceedings are subsequent remedial  
 14 measures under Rule 407 and should therefore be excluded to prove liability as it  
 15 pertains to an individual officer's actions. *Maddox v City of Los Angeles, supra*,  
 16 792 F.2d at 1417. Therefore, as was the case in *Maddox*, evidence of any LAPD  
 17 administrative proceedings, investigation or its review of the use of force incident  
 18 should be excluded to prove liability as to Defendant Officer Alvarez.  
 19

20 **V. CONCLUSION.**

21 For the foregoing reasons, Defendants respectfully request that the Court  
 22 issue an order precluding the Plaintiff, his counsel and witnesses, including expert  
 23 witnesses, from introducing any evidence relating to or reference to any other  
 24 national events or statistics involving law-enforcement, along with all claims,  
 25 citizen complaints, lawsuits, settlements, verdicts, judgments, LAPD administrative  
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1 investigations or proceedings, and any other alleged incidents not related to the  
2 instant matter.

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5 Date: May 3, 2024

**STONE BUSAILAH, LLP**

6 By: /s/ Muna Busailah

7 MUNA BUSAILAH, Esq.  
8 Attorney for Defendants JOSE ZAVALA,  
9 JULIO QUINTANILLA  
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